**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN**
**&**
**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929**

**MFA.No. 285 of 2002()**
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**OPMV.5725/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA**
**.....**

**APPELLANT: APPELLANT/2ND RESPONDENT:**
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**NATIONAL INSUSRANCE COMPANY LTD.,**
**REP. BY ITS ASST. ADMINISTRATIVE OFFICER,**
**KOCHI REGIONAL OFFICE-T.P. CELL,**
**M.G. ROAD, ERNAKULAM.**

**BY ADV. SRI.P.R.RAMACHANDRA MENON**

**RESPONDENTS: RESPONDENTS/CLAIMANTS AND 1ST RESPONDENT:**
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**1. BALAN, S/O. POKKAYI,**
**AGED ABOUT 46 YEARS, KAPPIRIKUNIYIL HOUSE,**
**CHEROD AMSOM, P.O. MUTTUNGAL, VADAKARA TALUK,**
**KOZHIKODE DISTRICT.**

**2. V. ANILKUMAR, S/O. KANNAN,**
**'KARTHIKA', PURAMKARA, VADAKRA TALUK,**
**KOZHIKODE DISTRICT.**

**BY ADV. SRI.N.J.ANTONY**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**K.S. Radhakrishnan &**
**T.R. Ramachandran Nair, JJ.**

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**M.F.A.NO.285 OF 2002**

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**Dated this the 13th day of November, 2007**

**JUDGMENT**

**Radhakrishnan, J.**

Even though notice was served on the owner of the vehicle, there is no appearance. Since the award was passed prior to the decision of the Supreme Court in **New India Assurance Co. Ltd. v. Asha Rani** (2003 (1) KLT 165 (SC)) the insurance company can pay the amount to the claimant and recover it from the owner of the vehicle.

This appeal is therefore disposed of with a direction to the insurance company to pay the amount awarded, to the claimant and reserving its liberty to recover the amount from the owner of the vehicle.

**(K.S. Radhakrishnan, Judge.)**

**(T.R. Ramachandran Nair, Judge.)**

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**T.R. Ramachandran Nair, JJ.**

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**M.F.A.NO.285 OF 2002**

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**JUDGMENT**

**13th day of November, 2007**

**ORDER ON CMP NO.1430/02**

**DISMISSED.**

**13/11/2007** **SD/- K.S. RADHAKRISHNAN,**
**JUDGE**

**SD/- T.R. RAMACHANDRAN NAIR,**
**JUDGE,**

**// TRUE COPY //**

**P.S. TO JUDGE**